

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

HAROLD J. SCOTT,

Plaintiff,

- v -

9:10-CV-230 (NAM/RFT)

M. NICHOLS, Tier III Assistant, JAMES PAGANO, Tier III Hearing Officer, J. GREY, Officer-In-Charge of Urinalysis Testing Program, Great Meadow Correctional Facility, P. VANGUILDER, Deputy Superintendent of Security Services of Great Meadow Correctional Facility, DARWIN LECLAIR, Superintendent, Great Meadow Correctional Facility, KEITH F. DUBRAY, Acting Director of the State Department of Correctional Services (“DOCS”), Special Housing Unit & Inmate Disciplinary Program and Urinalysis Program,

Defendants.

APPEARANCES:

HAROLD J. SCOTT
84-A-4541
Elmira Correctional Facility
P.O. Box 500
Elmira, New York 14902
Plaintiff, Pro Se

HON. ERIC T. SCHNEIDERMAN, Attorney General of the State of New York
MICHAEL G. MCCARTIN, ESQ., Assistant Attorney General
The Capitol
Albany, New York 12224
Attorney for Defendants

Hon. Norman A. Mordue, U.S. District Judge:

MEMORANDUM-DECISION AND ORDER

Upon referral pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 72.3(c), United States Magistrate Judge Randolph F. Treece has prepared a Report-Recommendation and Order (Dkt. No. 72) in this *pro se* inmate civil rights action under 42 U.S.C. § 1983. Magistrate Judge Treece recommends that the defendants’ motion (Dkt. No. 56) for summary judgment be granted and the

case dismissed. Magistrate Judge Treece's recommendation is based on his conclusion that the Third Department's disposition in plaintiff's Article 78 proceeding collaterally estops plaintiff from asserting most of his claims in this Court. Magistrate Judge Treece further concluded that the sole remaining claim – the claim that plaintiff had been denied due process in his disciplinary proceeding – lacks merit as a matter of law. Therefore, Magistrate Judge Treece did not reach the issues of supervisory liability or qualified immunity.

After obtaining an extension of time to object, plaintiff has filed a lengthy objection (Dkt. No. 75). Pursuant to 28 U.S.C. § 636(b)(1)(C), this Court reviews *de novo* those parts of a report and recommendation to which a party specifically objects. Upon *de novo* review, the Court accepts and adopts the Report-Recommendation and Order in its entirety.

It is therefore

ORDERED that the Report-Recommendation and Order (Dkt. No. 72) is accepted and adopted in its entirety; and it is further

ORDERED that defendants' motion (Dkt. No. 56) for summary judgment is granted and the case dismissed with prejudice; and it is further

ORDERED that the Clerk of the Court is directed to serve copies of this Memorandum-Decision and Order in accordance with the Local Rules of the Northern District of New York.

IT IS SO ORDERED.

Date: May 21, 2013
Syracuse, New York


Honorable Norman A. Mordue
U.S. District Judge